

EXHIBIT O

U.S. Department of Homeland Security
300 12th Street, SW
Washington, DC 20536-5009



U.S. Immigration
and Customs
Enforcement

December 20, 2011

Rec'd 12-21-11 pbg

SUSAN B. LONG
TRANSACTIONAL RECORDS ACCESS CLEARINGHOUSE
SYRACUSE UNIVERSITY
360 NEWHOUSE II
SYRACUSE, NY 13244

RE: ICE FOIA Case Number 2010FOIA4313

Dear Dr. Long:

This letter is the first interim response to your Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), dated May 17, 2010. You have requested copies of anonymous alien-by-alien data covered by the Enforcement Case Tracking System and related modules for individuals on whom charging documents were issued from October 1, 2004 to the date of your request.

Your request has been processed under the FOIA, 5 U.S.C. § 552. A search of the ICE Office of Enforcement and Removal Operations (ERO) for records responsive to your request produced Microsoft Access databases for each of the calendar years between 2004 and 2010. Each of those databases was comprised of 5 tables which contained the responsive data. For your convenience, ICE has added a column to each table labeled FY_FOIA_ID which contains a random number generated by ERO as they produced the data. You can use this number to track information about a particular alien across the various tables.

As you are aware from previous discussions and correspondence, ICE is unable to pull data directly from ENFORCE. Instead, we utilize the ICE Integrated Decision Support Database (IIDS) for our reporting needs. IIDS only pulls those fields of data contained in ENFORCE that are necessary to meet the reporting requirements needed for ICE's standard reports to Congress and ICE leadership. While many of the fields of data you have requested are captured by IIDS, several are not. Consequently, ICE is unable to produce data related to items 24, 27, 29, 30, 32, 33, 34, 35, 36, 37, 38, and 39.

At this time, ICE has completed the processing of data for calendar years 2004 and 2005. To process this data, ICE was required to export the data into ten Microsoft Excel spreadsheets. After review of those spreadsheets, I have determined that 2 columns will be withheld pursuant to Exemptions 6 and 7(C) of the FOIA as described below.

ICE has applied FOIA Exemptions 6 and 7(C) to protect from disclosure the information contained in the "Date of Birth" and "Apprehension Landmark" columns. This information, in combination with other information contained within the spreadsheets or information available in the public

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

FOIA Exemption 7(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes particular note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them revealed in connection with an investigation. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. As such, I have determined that the privacy interest in the identities of individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information. Please note that any private interest you may have in that information does not factor into this determination.

You have the right to appeal our withholding determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 60 days of the date of this letter to: U.S. Immigration Customs Enforcement, Office of Principal Legal Advisor, U.S. Department of Homeland Security, Freedom of Information Office, 500 12th Street, S.W., Stop 5009 Washington, D.C. 20536-5009, following the procedures outlined in the DHS regulations at 6 C.F.R. § 5.9. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

ICE continues to process records located in response to your request. When the processing of those records is complete, we will address those records in a subsequent response to you.

If you need to contact our office about this matter, please refer to FOIA case number **2010FOIA4313**. This office can be reached at (202) 732-0600 or (866) 633-1182.

Sincerely,

 **FOR**

Catrina M. Pavlik-Keenan
FOIA Officer

Enclosure(s): 10 Microsoft Excel Spreadsheets
Your May 17, 2010 FOIA Request